



Reprinted  
February 26, 2004

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## ENGROSSED HOUSE BILL No. 1151

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DIGEST OF HB 1151 (Updated February 25, 2004 4:40 pm - DI 102)

**Citations Affected:** IC 3-5; IC 3-6; IC 3-7; IC 3-11; IC 3-12; IC 3-14; IC 33-16; IC 35-44; noncode.

**Synopsis:** Absentee ballots. Defines "household" for election code purposes. Exempts 16 and 17 year olds who serve as precinct election workers from obtaining a work certificate or complying with certain restrictions regarding hours worked on school days. Requires an individual who appears to vote after the individual's registration is placed on inactive status under a voter list maintenance program to affirm that the individual currently resides at the address shown on the individual's registration before the individual is permitted to vote. Specifies the requirements for a county voter registration office to conduct a voter list maintenance program. Requires an absentee ballot application to be filed within specific times. Requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. Requires an applicant for an absentee ballot to affirm the content of the application under the  
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**Effective:** January 1, 2004 (retroactive); upon passage; July 1, 2004.

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(SENATE SPONSORS — LAWSON C, BREAUX)

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January 13, 2004, read first time and referred to Committee on Elections and Apportionment.

January 29, 2004, amended, reported — Do Pass.

February 4, 2004, read second time, amended, ordered engrossed.

February 5, 2004, engrossed. Read third time, passed. Yeas 85, nays 10.

SENATE ACTION

February 10, 2004, read first time and referred to Committee on Elections and Civic Affairs.

February 17, 2004, amended, reported favorably — Do Pass.

February 25, 2004, read second time, amended, ordered engrossed.

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EH 1151—LS 7090/DI 75+



penalties for perjury. Permits an absentee voter board or the circuit court clerk to compare the signature on an absentee ballot application to the signature on the voter's registration record to make certain determinations regarding the validity of an absentee ballot. Permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. Exempts a polling place located outside of a precinct or township in an accessible facility from being located in a public building. With the unanimous consent of both county election boards, permits a polling place to be located in an accessible facility in an adjoining county. Specifies the procedures that may be used to designate the chute. Provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. Requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. Makes other changes relating to absentee ballots, eligibility of individuals serving as watchers, and the recounting of ballots. Establishes new criminal offenses relating to fraud and misrepresentation in elections and conspiracy involving false or fraudulent absentee ballot or voter registration applications. Permits an individual conducting an accessibility survey to enter the polls on election days in 2004. Requires the legislative council to direct a legislative study committee to study existing criminal penalties for election law violations. Legalizes the deposit of oaths of political subdivision officers made after the statutory deadline and before March 1, 2004.

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Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1151

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A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 3-5-2-26.4 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: **Sec. 26.4. "Household" has the meaning set**  
4 **forth in the Profiles of General Demographic Characteristics,**  
5 **Census 2000, United States Census Bureau.**  
6 SECTION 2. IC 3-6-6-39, AS AMENDED BY P.L.209-2003,  
7 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
8 UPON PASSAGE]: Sec. 39. (a) The county election board by  
9 unanimous vote of the entire membership of the board may permit an  
10 individual who is not a voter to serve as any precinct election officer  
11 (other than inspector), or to assist a precinct election officer, if the  
12 individual satisfies all the following:  
13 (1) The individual is at least sixteen (16) years of age but not  
14 more than seventeen (17) years of age.  
15 (2) The individual is a citizen of the United States.  
16 (3) The individual is a resident of the county.  
17 (4) The individual has a cumulative grade point average

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equivalent to not less than 3.0 on a 4.0 scale.

(5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment or, if the student is educated in the home, the approval of the individual responsible for the education of the student.

(6) The individual has the approval of the individual's parent or legal guardian.

(7) The individual has satisfactorily completed any training required by the county election board.

(8) The individual otherwise is eligible to serve as a precinct election officer under this chapter.

(b) ~~After January 1, 2004,~~ An individual appointed to a precinct election office or assistant under this section:

(1) must serve in a nonpartisan manner in accordance with the standards developed by the Help America Vote Foundation under 36 U.S.C. 152602; and

(2) while serving as a precinct election officer or assistant:

(A) is not required to obtain an employment certificate under IC 20-8.1-4-1; and

(B) is not subject to the limitations on the time and duration of employment under:

(i) IC 20-8.1-4-20; or

(ii) IC 20-8.1-4-21(b).

SECTION 3. IC 3-6-8-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) A watcher appointed under this chapter must **satisfy both of the following:**

(1) A watcher must be a registered voter of the county.

(2) A watcher may not be related to a candidate in a manner that would disqualify the watcher to serve as a precinct election officer under IC 3-6-6-7(a)(4).

SECTION 4. IC 3-7-33-4.5, AS ADDED BY P.L.209-2003, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ (a) Except as provided in subsection ~~(c)~~, (b), this section applies to an individual who:

(1) submits an application to register to vote by mail under IC 3-7-22; and

(2) has not previously voted in:

(A) a general election in Indiana (or a special election for federal office in Indiana); or

(B) a general election (or a special election for federal office)

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in the county where the individual has submitted an application under this chapter if a statewide voter registration system is not operational in accordance with the requirements of IC 3-7-26 and 42 U.S.C. 15483 on the date the application is received by the county voter registration office.

~~(c)~~ **(b)** This section does not apply to an individual who complies with the requirements in any of the following:

(1) The individual submits an application to register to vote by mail under this chapter and includes with that mailing a copy of:

(A) a current and valid photo identification; or

(B) a current utility bill, bank statement, government check, paycheck, or government document;

that shows the name and **residence** address of the voter **stated on the voter registration application.**

(2) The individual submits an application to register to vote by mail under this chapter that includes the individual's:

(A) Indiana driver's license number; or

(B) last four (4) digits of the individual's Social Security number;

and the county voter registration office or election division matches the information submitted by the applicant with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration application.

(3) The individual is an absent uniformed services voter or overseas voter.

(4) The individual is entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual.

(5) The individual is entitled to vote other than in person under any other federal law.

~~(d)~~ **(c)** When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is subject to the requirements to provide additional documentation under this section and 42 U.S.C. 15483.

~~(e)~~ **(d)** As required by 42 U.S.C. 15483, a county voter registration office shall administer the requirements of this section in a uniform and nondiscriminatory manner.

~~(f)~~ **(e)** If the county voter registration office determines that the applicant:

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(1) is not required to submit additional documentation under this section; or

(2) has provided the documentation required under this section; the county voter registration office shall process the application in accordance with section 5 of this chapter.

~~(g)~~ (f) If the county voter registration office determines that the applicant is required to submit additional documentation under this section and 42 U.S.C. 15483, the office shall process the application under section 5 of this chapter and, if the applicant is otherwise eligible to vote, add the information concerning this documentation to the voter's computerized registration entry under IC 3-7-27-20(c).

~~(h)~~ (g) The county voter registration office shall remove the notation described in subsection ~~(g)~~ (f) after the voter votes in an election for a federal office.

SECTION 5. IC 3-7-38.1-7, AS AMENDED BY P.L.38-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) A county voter registration office shall cancel the registration of a voter who is described by both of the following:

- (1) The voter is described in section 4(a)(5)(C) of this chapter.
- (2) The voter has not voted (or appeared to vote or to correct the registration record stating the voter's address) in an election during the period:
  - (A) beginning on the date of the notice sent under section 4(a)(3) of this chapter; and
  - (B) ending on the day after the date of the second general election that occurs after the date of the notice sent under section 4(a)(3) of this chapter.

(b) **If an individual appears to vote after the individual's registration is placed on inactive status under section 5 of this chapter, the individual must affirm under IC 3-10-1 or IC 3-11-8 before the individual is permitted to vote that the individual currently resides at the address shown on the individual's registration.**

(c) At the expiration of the period ending thirty (30) days after the second general election described in subsection (a)(2)(B), the county voter registration office shall cancel the registration of a voter described by this section.

SECTION 6. IC 3-7-38.2-2, AS AMENDED BY P.L.209-2003, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter list maintenance program conducted under this chapter or before January 1, 2006, IC 3-7-38.1

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1 must be:

- 2 (1) uniform, nondiscriminatory, and in compliance with the  
 3 Voting Rights Act of 1965 (42 U.S.C. 1973);  
 4 (2) not result in the removal of the name of a person from the  
 5 official list of votes solely due to the person's failure to vote; and  
 6 (3) completed not later than ninety (90) days before a primary,  
 7 general, or municipal election.

8 **(b) A county voter registration office may conduct a voter list**  
 9 **maintenance program that complies with subsection (a). In**  
 10 **conducting a voter list maintenance program, the county voter**  
 11 **registration office shall mail a notice described in subsection (d) to**  
 12 **each registered voter at the residence address:**

- 13 (1) listed in the voter's registration record; and  
 14 (2) determined by the county voter registration office not to  
 15 be the voter's current residence address.

16 **(c) A county voter registration office may use information only**  
 17 **from the following sources to make the determination under**  
 18 **subsection (b)(2):**

- 19 (1) The United States Postal Service National Change of  
 20 Address Service.  
 21 (2) A court regarding jury duty notices.  
 22 (3) The return of a mailing sent by the county voter  
 23 registration office to all voters in the county.  
 24 (4) The bureau of motor vehicles concerning the surrender of  
 25 a voter's Indiana license for the operation of a motor vehicle  
 26 to another jurisdiction.

27 **(d) The notice described in subsection (b) must:**

- 28 (1) be sent by first class United States mail, postage prepaid,  
 29 by a method that requires the notice to be forwarded to the  
 30 voter; and

31 (2) include a postage prepaid return card that:

- 32 (A) is addressed to the county voter registration office;  
 33 (B) states a date by which the card must be returned or the  
 34 voter's registration will become inactive until the  
 35 information is provided to the county voter registration  
 36 office; and  
 37 (C) permits the voter to provide the voter's current  
 38 residence address.

39 **(e) If a voter returns the card described in subsection (d)(2) and**  
 40 **provides a current residence address that establishes that the voter**  
 41 **resides:**

- 42 (1) in the county, the county voter registration office shall

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1 update the voter's registration record; or  
 2 (2) outside the county, the county voter registration office  
 3 shall cancel the voter's registration.

4 (f) If a voter does not return the card described in subsection  
 5 (d)(2) by the date specified in subsection (d)(2)(B), the county voter  
 6 registration office shall indicate in the voter's registration record  
 7 that the voter's registration is inactive.

8 (g) A voter's registration that becomes inactive under subsection  
 9 (f) remains in inactive status from the date described in subsection  
 10 (d)(2)(B) until the earlier of the following:

11 (1) The date the county voter registration office updates or  
 12 cancels the voter's registration under subsection (e) after the  
 13 voter provides a current residence address.

14 (2) The day after the second general election in which the  
 15 voter has not voted or appeared to vote.

16 (h) After the date described in subsection (g)(2), the county  
 17 voter registration office shall remove the voter's registration from  
 18 the voter registration records.

19 SECTION 7. IC 3-7-38.2-13, AS AMENDED BY P.L.38-1999,  
 20 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 UPON PASSAGE]: Sec. 13. After the county voter registration office  
 22 has determined under this chapter that a voter's residence may have  
 23 changed, the election division shall send a notice to the voter that sets  
 24 forth substantially the following statements as provided in 42 U.S.C.  
 25 1973gg-6(d)(2):

26 (1) If the voter did not change the voter's residence or changed  
 27 the residence but remained in the same county where the voter  
 28 was listed on the voter registration record, the voter must return  
 29 the card enclosed with the notice in person to the county voter  
 30 registration office not later than twenty-nine (29) days before the  
 31 election or by regular United States mail:

32 (A) with a postmark not later than twenty-nine (29) days  
 33 before the election; or

34 (B) if a postmark is missing or illegible, to the county voter  
 35 registration office not later than twenty-one (21) days before  
 36 the election.

37 (2) If the card is not returned under subdivision (1), the voter ~~may~~  
 38 ~~be required to~~ **must** affirm or confirm the voter's address before  
 39 the voter is permitted to vote in an election during the period:

40 (A) beginning on the date of the notice; and

41 (B) ending on the day after the date of the second general  
 42 election scheduled to occur after the date of the notice.

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(3) If the voter does not vote in an election described in subdivision (2), the voter's name will be removed from the voter registration list.

(4) If the voter changed residence to a place outside the county in which the voter is included on the voter registration list, information concerning how the voter can continue to be eligible to vote in the county where the voter currently resides.

SECTION 8. IC 3-11-4-1, AS AMENDED BY P.L.126-2002, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 1. (a) A voter who is otherwise qualified to vote in person is entitled to vote by absentee ballot: ~~Except~~

**(1) by mail;**

**(2) before an absentee voter board as otherwise provided in this article; a voter voting by absentee ballot must vote**

**(3) in the office of the circuit court clerk; or**

**(4) at a satellite office established under IC 3-11-10-26.3.**

(b) A county election board, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the board determines that the person has been hospitalized or suffered an injury following the final date and hour for applying for an absentee ballot that would prevent the person from voting in person at the polls.

(c) The commission, by unanimous vote of its entire membership, may authorize a person who is otherwise qualified to vote in person to vote by absentee ballot if the commission determines that an emergency prevents the person from voting in person at a polling place.

(d) The absentee ballots used in subsection (b) or (c) must be the same official absentee ballots as described in section 12 and 13 of this chapter. Taking into consideration the amount of time remaining before the election, the commission shall determine whether the absentee ballots are transmitted to and from the voter by mail or personally delivered. An absentee ballot that is personally delivered shall comply with the requirements in sections 19, 20, and 21 of this chapter.

SECTION 9. IC 3-11-4-2, AS AMENDED BY P.L.126-2002, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. **Except as provided in subsection (b), the voter must sign the absentee ballot application.**

**(b) If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board**

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1 may designate an individual to sign the application on behalf of the  
 2 voter. If an individual applies for an absentee ballot as the properly  
 3 authorized attorney in fact for a voter, the attorney in fact must attach  
 4 a copy of the power of attorney to the application.

5 (c) A person who assists an individual in completing an absentee  
 6 ballot application shall state the following information on the  
 7 application:

8 (1) The full name, residence and mailing address, and daytime  
 9 and evening telephone numbers (if any) of the individual  
 10 submitting the application.

11 (2) The date and location at which this assistance was  
 12 provided.

13 (3) That the individual has no knowledge or reason to believe  
 14 that the individual submitting the application:

15 (A) is ineligible to vote or ineligible to cast an absentee  
 16 ballot; or

17 (B) did not properly complete and sign the application.

18 (d) A person who receives a completed absentee ballot  
 19 application from the individual who has applied for the absentee  
 20 ballot shall file the application with the appropriate county election  
 21 board not later than:

22 (1) noon seven (7) days after the individual receives the  
 23 application; or

24 (2) the deadline set by Indiana law for filing the application  
 25 with the board;

26 whichever occurs first.

27 (e) An individual filing an absentee ballot application received  
 28 from another individual must sign an affidavit at the time of filing  
 29 the application. The affidavit must be in a form prescribed by the  
 30 commission. The form must include the following:

31 (1) A statement of the full name, residence and mailing  
 32 address, and daytime and evening telephone numbers (if any)  
 33 of the individual submitting the application.

34 (2) A statement that the individual filing the affidavit has  
 35 complied with the Indiana laws governing the submission of  
 36 absentee ballot applications.

37 (3) A statement that the individual has no knowledge or  
 38 reason to believe that the individual whose application is to be  
 39 filed:

40 (A) is ineligible to vote or to cast an absentee ballot; or

41 (B) did not properly complete and sign the application.

42 (4) A statement that the individual is executing the affidavit

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under the penalties of perjury.

(5) A statement setting forth the penalties for perjury.

(f) The county election board shall record the date and time of the filing of the affidavit and provide the individual with a file stamped copy of the affidavit without collecting any copying fee.

SECTION 10. IC 3-11-4-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter that contains a standardized oath for those voters. The form of the application for an absentee ballot must:

(1) require the applicant to swear to or affirm under the penalties of perjury that all the information set forth on the application is true to the best of the applicant's knowledge and belief;

(2) require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(c) of this chapter; and

(3) set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

(1) requests an absentee ballot; and

(2) is eligible to vote in the precinct under IC 3-10-11 or IC 3-10-12;

must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

SECTION 11. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (**or the absentee voter board in the office of the circuit court clerk**) shall determine if:

(1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;

(2) the information set forth on the application appears to be true; and

(3) the application has been completed and filed in accordance with Indiana and federal law.

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If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. The members of the absentee voter board or the county election board may compare the voter's signature on the application with the voter's signature on the voter's registration record to make a determination under this subsection.

(b) If:

(1) the applicant is not a voter of the precinct according to the registration record; or if

(2) the application as completed and filed:

(A) contains a false statement; or

(B) does not otherwise comply with this chapter, Indiana or federal law;

as alleged under section 18.5 of this chapter, the county election board shall deny the application.

~~(b)~~ (c) This subsection applies after December 31, 2003, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

(1) not later than forty-eight (48) hours after the application is denied; and

(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

~~(c)~~ This subsection applies after December 31, 2003.

(d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

(1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and

(2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under

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IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(d)~~ (e) If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 12. IC 3-11-4-18, AS AMENDED BY P.L.209-2003, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 18. (a) If a voter satisfies any of the following, **qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail**, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(1) The voter will be absent from the county on election day:

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested:

(3) The voter will be confined on election day to the voter's residence; to a health care facility; or to a hospital because of an illness or injury.

(4) The voter is a voter with disabilities:

(5) The voter is an elderly voter:

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury.

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open:

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

(b) This subsection applies after December 31, 2003. If the county

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election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) The ballot shall be mailed:

- (1) on the day of the receipt of the voter's application; or
- (2) not more than five (5) days after the date of delivery of the ballots under section 15 of this chapter;

whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county election board shall mail a special absentee ballot for overseas voters.

(e) The ballot described in subsection (d):

(1) must be mailed:

- (A) on the day of the receipt of the voter's application; or
- (B) not more than five (5) days after the date of delivery of the ballots under section 13(b) of this chapter;

whichever is later; and

- (2) may not be mailed after the absentee ballots described by section 13(a) of this chapter have been delivered to the circuit court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by 42 U.S.C. 15481, an election board ~~must~~ **shall** establish a voter education program (specific to a paper ballot or optical scan ballot card provided as an absentee ballot under this chapter) to notify a voter of the effect of casting multiple ballots for a single office.

(g) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is mailed under this section, the mailing must include:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

SECTION 13. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with**

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the county election board alleging that the application:

- (1) is not submitted by a voter of the precinct;
- (2) contains a false statement; or
- (3) has not been executed or filed in accordance with Indiana or federal law.

(b) The affidavit must be in a form prescribed by the commission and state the following:

- (1) The name and title of the individual filing the affidavit.
- (2) A brief statement of the facts known or believed by the individual regarding why:

(A) the applicant is not a voter of the precinct;

(B) the application contains a false statement; or

(C) the application has not been executed or filed in accordance with Indiana or federal law.

(3) That the individual is executing the affidavit under the penalties of perjury.

(4) The penalties for perjury.

(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.

(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.

SECTION 14. IC 3-11-4-21, AS AMENDED BY P.L.209-2003, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

(1) The name of the precinct and township (or ward and city or town).

(2) That the voter is:

(A) a resident of; or

(B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.

(3) The voter's complete residence address, including the name of the city or town and county.

(4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.

(5) That:

(A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and

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sealed them without exhibiting them to any other person;

(B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

**(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury.**

SECTION 15. IC 3-11-8-3, AS AMENDED BY P.L.116-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Before each election each county executive shall secure for each precinct of the county an accessible facility in which to hold the election.

(b) If an accessible facility is not available within the precinct, then the polls may be located ~~in a public building~~ in an adjoining precinct if the ~~public building is~~ **polls are**:

(1) either:

(A) not more than one (1) mile from the closest boundary of the precinct for which it is the polls; or

(B) located in the same township as the precinct that does not have an accessible facility available; and

(2) an accessible facility.

(c) If the county election board, by a unanimous vote of its entire membership, determines that an accessible facility is not available under subsection (b), the board may locate the polls in the most convenient available accessible facility in the county.

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(d) If the county election board, by a unanimous vote of its entire membership, determines that:

(1) an accessible facility is not available under subsection (b) or (c); and

(2) the most convenient accessible facility is located in a adjoining county;

the board may locate the polls in that facility with the unanimous consent of the entire membership of the county election board of the county in which the facility is located.

SECTION 16. IC 3-11-8-7, AS AMENDED BY P.L.69-2003, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. In preparing the polls for an election, the county executive shall:

(1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the voting machines, ballot card voting systems, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;

(2) ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and

(3) provide a **method or material for designating the boundaries of the chute, such as** with a railing, rope, or wire on each side, beginning a distance equal to the length of the chute (as defined in IC 3-5-2-10) away from and leading to the door for challenge and to the room in which the election is held.

SECTION 17. IC 3-11-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter voting by absentee ballot may mark a ballot with a pen or a lead pencil.

**(b) A person may not engage in electioneering (as defined in IC 3-14-3-16) in the presence of a voter if the person knows that the voter possesses an absentee ballot provided to the voter in accordance with Indiana law.**

SECTION 18. IC 3-11-10-24, AS AMENDED BY P.L.126-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail:

(1) The voter will be absent from the county on election day.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

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- 1 (B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;  
 2 (C) a challenger or pollbook holder under IC 3-6-7; or  
 3 (D) a person employed by an election board to administer the  
 4 election for which the absentee ballot is requested.
- 5 (3) The voter will be confined on election day to the voter's  
 6 residence, to a health care facility, or to a hospital because of an  
 7 illness or injury.
- 8 (4) The voter is a voter with disabilities.
- 9 (5) The voter is an elderly voter.
- 10 (6) The voter is prevented from voting due to the voter's care of  
 11 an individual confined to a private residence because of illness or  
 12 injury.
- 13 (7) The voter is scheduled to work at the person's regular place of  
 14 employment during the entire twelve (12) hours that the polls are  
 15 open.
- 16 (8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.
- 17 **(9) The voter is an address confidentiality program**  
 18 **participant (as defined in IC 5-26.5-1-6).**
- 19 (b) A voter with disabilities who:  
 20 (1) is unable to make a voting mark on the ballot or sign the  
 21 absentee ballot secrecy envelope; and  
 22 (2) requests that the absentee ballot be delivered to an address  
 23 within Indiana;  
 24 must vote before an absentee voter board under section 25(b) of this  
 25 chapter.
- 26 **(c) If a voter receives an absentee ballot by mail, the voter shall**  
 27 **personally mark the ballot in secret and seal the marked ballot**  
 28 **inside the envelope provided by the county election board for that**  
 29 **purpose. The voter shall then deposit the sealed envelope in the**  
 30 **United States mail for delivery to the county election board or may**  
 31 **authorize a member of the voter's household or the individual**  
 32 **designated as the voter's attorney in fact to deposit the envelope in**  
 33 **the United States mail.**
- 34 ~~(c)~~ (d) After a voter has mailed an absentee ballot to the office of  
 35 the circuit court clerk, the voter may not recast a ballot, except as  
 36 provided in:  
 37 (1) section 1.5 of this chapter; or  
 38 (2) section 33 of this chapter.
- 39 SECTION 19. IC 3-11-10-25, AS AMENDED BY P.L.209-2003,  
 40 SECTION 146, IS AMENDED TO READ AS FOLLOWS  
 41 [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by  
 42 absentee ballot because of:

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1 (1) illness or injury; or  
 2 (2) caring for a confined person at a private residence;  
 3 and who is within the county on election day may vote before an  
 4 absentee voter board or by mail.

5 (b) If requested by a voter described in subsection (a) or by a voter  
 6 with disabilities whose precinct is not accessible to voters with  
 7 disabilities, an absentee voter board shall visit the voter's place of  
 8 confinement, the residence of the voter with disabilities, or the private  
 9 residence:

10 (1) during the regular office hours of the circuit court clerk;

11 (2) at a time agreed to by the board and the voter;

12 (3) on any of the twelve (12) days immediately before election  
 13 day; and

14 (4) only once before an election, unless:

15 (A) the confined voter is unavailable at the time of the board's  
 16 first visit due to a medical emergency; or

17 (B) the board, in its discretion, decides to make an additional  
 18 visit.

19 (c) This subsection applies to a voter confined due to illness or  
 20 injury. An absentee voter board may not be denied access to the voter's  
 21 place of confinement if the board is present at the place of confinement  
 22 at a time:

23 (1) agreed to by the board and the voter; and

24 (2) during the regular office hours of the circuit court clerk. A  
 25 person who knowingly violates this subsection commits  
 26 obstruction or interference with an election officer in the  
 27 discharge of the officer's duty, a violation of IC 3-14-3-4.

28 (d) The county election board, by unanimous vote of the board's  
 29 entire membership, may authorize an absentee voter board to visit a  
 30 voter who is confined due to illness or injury and will be outside of the  
 31 county on election day in accordance with the procedures set forth in  
 32 subsection (b).

33 (e) This subsection applies after December 31, 2005. As provided  
 34 by 42 U.S.C. 15481, a voter casting an absentee ballot under this  
 35 section must be:

36 (1) permitted to verify in a private and independent manner the  
 37 votes selected by the voter before the ballot is cast and counted;

38 (2) provided with the opportunity to change the ballot or correct  
 39 any error in a private and independent manner before the ballot is  
 40 cast and counted, including the opportunity to receive a  
 41 replacement ballot if the voter is otherwise unable to change or  
 42 correct the ballot; and

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(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

**(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter. The Absentee Voter's Bill of Rights must be in a form prescribed by the commission and include the following:**

**(1) A statement summarizing the rights and responsibilities of the voter when casting and returning the absentee ballot.**

**(2) A summary of Indiana and federal laws concerning providing assistance to the voter, completion of the ballot in secret, the intimidation of voters, and the return of the absentee ballot to the county election board.**

**(3) Information concerning how to report violations of the absentee ballot and election laws.**

SECTION 20. IC 3-11-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

(1) the **boundaries of the chute erected designated;**

(2) the sample ballots and instruction cards posted; and

(3) everything put in readiness for the commencement of voting at the opening of the polls.

(b) At the opening of the polls, the inspector and judges shall see that there are no ballots in the ballot box before the voting begins. After the inspection of the box, the inspector shall:

(1) securely lock the box;

(2) give one (1) key to the judge of the opposite political party; and

(3) retain one (1) key.

(c) Once securely locked, the ballot box may not be opened again until after the polls have been closed and the precinct election board is ready to immediately proceed with the counting, except as otherwise

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provided for central counting.

(d) The voting booths or compartments must be of a size and design to permit a voter to mark ballots in secret.

SECTION 21. IC 3-11-12-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. On the morning of election day, each precinct election board, the poll clerks, and the election sheriffs shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

SECTION 22. IC 3-11-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) After the delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

(b) While acting under subsection (a), the precinct election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement. The officers then shall certify that the marking device and the sample ballots are in agreement. Forms shall be provided for certification, and the certification shall be filed with the election returns.

SECTION 23. IC 3-11-14-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector

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then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

SECTION 24. IC 3-12-6-1.5, AS AMENDED BY P.L.40-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A candidate for election to precinct committeeman or state convention delegate is **not** entitled to have the votes cast for that office recounted under this chapter. The political party of the candidate, in accordance with any applicable party rules, determines the winner of an election to a political party office.

SECTION 25. IC 3-12-11-17.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.7. (a) **This section applies to ballots cast by any voting method.**

(b) Unless the state recount commission makes a finding under subsection ~~(b)~~, (c), the commission shall:

- (1) count ballots in accordance with this article; and
- (2) not order that all ballots in a precinct not be counted.

~~(b)~~ (c) If:

- (1) a party to the recount presents evidence of fraud, tampering, or misconduct affecting the integrity of the ballot within a precinct; and
- (2) the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission to determine the approximate number of votes that each candidate received in that precinct;

the commission may order that none of the ballots from that precinct be counted.

SECTION 26. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor. **knowingly does any of the following commits a Class D felony:**

- (1) **Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.**
- (2) **Conspires with an individual for the purpose of encouraging the individual to vote illegally.**
- (3) **Pays or offers to pay an individual for doing any of the**

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following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

(4) Accepts the payment of any property for doing any of the following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

SECTION 27. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. A person who does either of the following, knowing that an individual is ineligible to register to vote or to vote, commits absentee ballot fraud, a Class D felony:**

(1) Solicits the individual to complete an absentee ballot application.

(2) Solicits the individual to submit an absentee ballot application to a county election board.

SECTION 28. IC 3-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3. A person who:**

(1) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** knowing that the application contains a false statement; or

(2) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** without writing on it the person's own name and address as an attesting witness;

~~commits a Class A misdemeanor.~~ **Class D felony.**

SECTION 29. IC 3-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 5. (a) A person who recklessly destroys or fails to deliver an absentee ballot application to the proper officer after the application has been executed in accordance with IC 3-11-4 commits a Class A misdemeanor.**

**(b) A person who recklessly destroys or fails to file or deliver to the proper officer a registration affidavit or form of registration after it the affidavit or form has been executed commits a Class A misdemeanor.**

SECTION 30. IC 3-14-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: **Sec. 13. A person who knowingly hires or solicits another person**

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1           (1) to come into Indiana; or  
 2           (2) to go from one precinct into another a precinct  
 3 for the purpose of voting at an election **at the precinct** when the person  
 4 hired or solicited is not a voter in ~~Indiana~~ or the precinct commits a  
 5 Class D felony.

6           SECTION 31. IC 3-14-2-15 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of  
 8 the commission, an employee **or agent** of the ~~commission~~, **election**  
 9 **division**, or a member, **an employee, or an agent** of a county election  
 10 board who knowingly delivers a ballot to a person except in the manner  
 11 prescribed by this title commits a Class D felony.

12           SECTION 32. IC 3-14-2-16, AS AMENDED BY P.L.38-1999,  
 13 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 UPON PASSAGE]: Sec. 16. A person who knowingly does any of the  
 15 following commits a Class D felony:

16           (1) Applies for or receives a ballot in a precinct other than that  
 17 precinct in which the person is entitled to vote.

18           (2) Except when receiving assistance under IC 3-11-9, shows a  
 19 ballot after it is marked to another person in such a way as to  
 20 reveal the contents of it or the name of a candidate for whom the  
 21 person has voted.

22           (3) Except when offering assistance requested by a voter in  
 23 accordance with IC 3-11-9, examines a ballot that a voter has  
 24 prepared for voting or solicits the voter to show the ballot.

25           (4) Receives from a voter a ballot prepared by the voter for  
 26 voting, except:

27           (A) the inspector;

28           (B) a member of the precinct election board temporarily acting  
 29 for the inspector;

30           (C) a member of a county election board or an absentee voter  
 31 board acting under IC 3-11-10; or

32           (D) a member of the voter's household or an individual  
 33 designated as attorney in fact for the voter, **or an employee of**  
 34 **the United States Postal Service**, when delivering an  
 35 envelope containing an absentee ballot under IC 3-11-10-1.

36           (5) Receives a ballot from a person other than one of the poll  
 37 clerks or authorized assistant poll clerks.

38           (6) Delivers a ballot to a voter to be voted, unless the person is:

39           (A) a poll clerk or authorized assistant poll clerk; or

40           (B) a member of a county election board or an absentee voter  
 41 board acting under IC 3-11-10.

42           (7) Delivers a ballot (other than an absentee ballot) to an inspector

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1 that is not the ballot the voter receives from the poll clerk or  
2 assistant poll clerk.

3 (8) Delivers an absentee ballot to a team of absentee ballot  
4 counters appointed under IC 3-11.5-4-22, a county election board,  
5 a circuit court clerk, or an absentee voting board under IC 3-11-10  
6 that is not the ballot cast by the absentee voter.

7 **(9) Delivers an absentee ballot prepared by the voter for**  
8 **voting to a county election board, except for:**

9 **(A) the inspector;**

10 **(B) a member of the precinct election board temporarily**  
11 **acting for the inspector;**

12 **(C) a member of a county election board or an absentee**  
13 **voter board acting under IC 3-11-10; or**

14 **(D) a member of the voter's household or an individual**  
15 **designated as attorney in fact for the voter, or an employee**  
16 **of the United States Postal Service, when mailing an**  
17 **envelope containing an absentee ballot under IC 3-11-10-1.**

18 **(10) Possesses an unmarked absentee ballot on or before the**  
19 **date of the election for which the absentee ballot has been**  
20 **printed, unless the person is authorized to possess the**  
21 **absentee ballot under this title as any of the following:**

22 **(A) A printer or the election division, when arranging for**  
23 **the delivery of unmarked absentee ballots to a county**  
24 **election board under IC 3-11-2.**

25 **(B) A county election board member.**

26 **(C) An absentee voter board member.**

27 **(D) An employee of the United States Postal Service when**  
28 **delivering an envelope containing an absentee ballot.**

29 **(E) An individual authorized to deliver an absentee ballot**  
30 **in a sealed envelope under IC 3-11-10-24.**

31 **(F) An absentee ballot counter under IC 3-11.5.**

32 **(G) A provisional ballot counter.**

33 **(H) A precinct election officer.**

34 **(I) The voter who applied for the absentee ballot.**

35 **(11) Completes or signs an absentee ballot application for a**  
36 **voter, or assists a voter in completing an absentee ballot**  
37 **application in violation of IC 3-11.**

38 **(12) Except as authorized in this title:**

39 **(A) delivers an absentee ballot security envelope to a voter;**

40 **(B) requests or directs the voter to sign the absentee ballot**  
41 **security envelope; and**

42 **(C) receives from a voter the signed absentee ballot**

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1 **security envelope.**

2 SECTION 33. IC 3-14-2-18 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who  
4 knowingly:

5 (1) does anything to enable any other person to see or know for  
6 what ticket, candidates, or public questions the voter has voted on  
7 a voting ~~machine~~; **system**; or

8 (2) moves into a position, or does any other thing, to enable the  
9 voter to see or know for what ticket, candidates, or public  
10 questions any other voter votes on a voting ~~machine~~; **system**;

11 commits a Class D felony.

12 SECTION 34. IC 3-14-2-24 IS AMENDED TO READ AS  
13 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

14 (1) takes a ballot legally deposited out of a ballot box **or out of a**  
15 **voting system** for the purpose of destroying ~~it the ballot~~ or  
16 substituting another **ballot** in its place;

17 (2) destroys or misplaces a ballot with the intent to substitute  
18 another ballot for it or with the intent to prevent it from being  
19 counted; or

20 (3) knowingly enters upon the poll books the name of a person  
21 who has not legally voted or knowingly tallies a vote for a  
22 candidate or on a public question not voted for by the ballot;

23 commits a Class D felony.

24 SECTION 35. IC 3-14-2-26 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

26 (1) during the progress of an election or within the time for  
27 preparation required under this title, knowingly breaks open or  
28 violates the seal or lock of a ballot box, envelope, container, ~~or~~  
29 bag, **or voting system component** in which ballots have been  
30 deposited;

31 (2) knowingly obtains a ballot box, envelope, container, ~~or bag~~, **or**  
32 **voting system component** that contains ballots and cancels,  
33 withholds, or destroys a ballot;

34 (3) knowingly increases or decreases the number of ballots legally  
35 deposited in a ballot box, envelope, container, ~~or bag~~, **or voting**  
36 **system component**; or

37 (4) knowingly makes a fraudulent erasure or alteration on a tally  
38 sheet, poll book, list of voters, or election return deposited in a  
39 ballot box, envelope, ~~or bag~~, **or voting system component**;

40 commits a Class D felony.

41 SECTION 36. IC 3-14-2-29 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who

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1 knowingly inspects a ~~voting machine or electronic~~ voting system under  
 2 IC 3-12-4-18 without obtaining authorization from the state recount  
 3 commission to conduct the inspection commits a Class D felony.

4 SECTION 37. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 6 UPON PASSAGE]: **Sec. 1.5. A person who knowingly does any of  
 7 the following commits a Class D felony:**

8 **(1) Procures or submits voter registration applications known  
 9 by the person to be materially false, fictitious, or fraudulent.**

10 **(2) Procures, casts, or tabulates ballots known by the person  
 11 to be materially false, fictitious, or fraudulent.**

12 SECTION 38. IC 3-14-3-7 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. An inspector or  
 14 poll clerk in a precinct who, for the purpose of:**

15 **(1) deceiving a voter;**

16 **(2) causing it to be doubtful for what ticket, candidate, or public  
 17 question a vote is cast; or**

18 **(3) causing it to appear that votes cast for one ticket, candidate, or  
 19 public question were cast for another ticket, candidate, or public  
 20 question;**

21 **removes, changes, or mutilates a ballot label on a voting machine  
 22 system or any part thereof of a voting system commits a Class D  
 23 felony.**

24 SECTION 39. IC 3-14-3-16, AS AMENDED BY P.L.66-2003,  
 25 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 UPON PASSAGE]: **Sec. 16. (a) As used in this section,  
 27 "electioneering" includes expressing support or opposition to any  
 28 candidate or political party or expressing approval or disapproval of  
 29 any public question in any manner that could reasonably be expected  
 30 to convey that support or opposition to another individual.**

31 **(b) A person who knowingly does any electioneering:**

32 **(1) on election day: ~~within:~~**

33 **(A) ~~within~~ the polls; ~~or~~**

34 **(B) ~~within~~ fifty (50) feet ~~of~~ in any direction from the  
 35 entrance to the polls; ~~or~~**

36 **(C) ~~within~~ the chute; or**

37 **(D) ~~inside~~ the boundaries of the chute designated under  
 38 IC 3-11.**

39 **(2) within an area in the office of the circuit court clerk used by  
 40 an absentee voter board to permit an individual to cast an  
 41 absentee ballot; ~~or~~**

42 **(3) in the presence of a voter whom the person knows**

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1           **possesses an absentee ballot provided to the voter in**  
 2           **accordance with Indiana law;**  
 3       commits a Class A misdemeanor.

4           SECTION 40. IC 3-14-3-18, AS AMENDED BY P.L.176-1999,  
 5       SECTION 118, IS AMENDED TO READ AS FOLLOWS  
 6       [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section,  
 7       "candidate" includes an individual whom the person knows is  
 8       considering becoming a candidate.

9           (b) A person who, for the purpose of influencing a voter or  
 10       candidate, **does any of the following commits a Class D felony:**

11           (1) Seeks to enforce the payment of a debt by force or threat of  
 12           force.

13           (2) Ejects or threatens to eject the voter or candidate from a house  
 14           the voter or candidate occupies.

15           (3) Begins a criminal prosecution. ~~or~~

16           (4) Damages the business or trade of the voter or candidate.

17       ~~commits a Class D felony.~~

18           **(5) Communicates a threat to commit a forcible felony (as**  
 19           **defined in IC 35-41-1-11) against a voter or a candidate with**  
 20           **the intent that the voter or candidate:**

21           **(A) engage in conduct against the voter's or candidate's**  
 22           **will; or**

23           **(B) be placed in fear of retaliation for a prior lawful act as**  
 24           **a voter or a candidate.**

25       SECTION 41. IC 3-14-3-19 IS AMENDED TO READ AS  
 26       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who,  
 27       for the purpose of inducing or procuring another person to:

28           **(1) cast an absentee ballot; or**

29           **(2) vote or refrain from voting for or against a candidate or for or**  
 30           **against a public question at an election or political convention;**  
 31       gives, offers, or promises to any person any money or other property  
 32       commits a Class D felony.

33       SECTION 42. IC 3-14-3-20 IS AMENDED TO READ AS  
 34       FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who,  
 35       for the purpose of inducing or procuring a voter to:

36           **(1) cast an absentee ballot; or**

37           **(2) vote or refrain from voting for or against a candidate or for or**  
 38           **against a public question at an election or political convention;**  
 39       receives, accepts, requests, or solicits from any person any money or  
 40       other property commits a Class D felony.

41       SECTION 43. IC 3-14-3-20.5 IS ADDED TO THE INDIANA  
 42       CODE AS A **NEW** SECTION TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: **Sec. 20.5. (a) This section does not apply to activity subject to 18 U.S.C. 1341.**

**(b) An individual who knowingly:**

**(1) conspires to obtain property the individual would be entitled to receive as compensation for serving as an elected official by securing false or fraudulent absentee ballot applications or voter registration applications; and**

**(2) for the purpose of executing the conspiracy:**

**(A) causes the applications to be sent or delivered by any private or commercial carrier operating entirely within Indiana; or**

**(B) takes or receives from the private or commercial carrier the false or fraudulent applications or causes the applications to be delivered by the carrier to another person;**

**commits a Class D felony.**

SECTION 44. IC 3-14-3-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. A person who knowingly or intentionally intimidates, threatens, or coerces an individual for:**

**(1) voting or attempting to vote;**

**(2) urging or aiding another individual to vote or attempt to vote; or**

**(3) exercising any power or duty under this title concerning registration or voting;**

**commits voter intimidation, a Class D felony.**

SECTION 45. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.**

**(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the county election board for delivery by the prosecuting attorney for the county who to the grand jury under section 2 of this chapter. The prosecuting attorney for the county shall:**

**(1) proceed as if the affidavit had been made before the prosecuting attorney; and**

**(2) notify ensure that the grand jury notifies the NVRA official under section 2 of this chapter if a violation of NVRA appears to have occurred.**

SECTION 46. IC 3-14-5-2 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each member shall endorse that member's name on the back of the bag or envelope.

(b) The inspector and judge of the opposite political party shall deliver the **sealed** bag or envelope to the county election board. ~~whose duty it is to~~ **The county election board shall do the following:**

**(1) Remove the affidavits from the bag or envelope.**

**(2) Mail a copy of each affidavit to the secretary of state.**

**(3) Replace the affidavits within the bag or envelope.**

**(4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.**

**(5) Carefully preserve it the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.**

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

(d) The grand jury shall file a report of the result of its inquiry with:

(1) the court; and

(2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 47. IC 33-16-4-1, AS AMENDED BY P.L.176-1999, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The following are authorized to subscribe and administer oaths and take acknowledgments of all documents whatsoever, pertaining to all matters where an oath is required:

(1) Notaries public.

(2) Justices and judges of courts, in their respective jurisdictions.

(3) The secretary of state of Indiana.

(4) The clerk of the supreme court.

(5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.

(6) Clerks of circuit courts and master commissioners, in their respective counties.

(7) Judges of United States district courts of Indiana, in their respective jurisdictions.

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(8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.

(9) **The following, for any purpose authorized under IC 3:**

(A) A precinct election officer (as defined in IC 3-5-2-40.1).  
~~and~~

(B) An absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(C) **The director, the assistant director, or an employee of the board of elections and registration established by IC 3-6-5.2-3.**

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana.

SECTION 48. IC 35-44-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who:

(1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant;

(2) being a public servant, solicits, accepts, or agrees to accept, either before or after ~~he~~ **the person** becomes appointed, elected, or qualified, any property, except property ~~he~~ **the person** is authorized by law to accept, with intent to control the performance of an act related to ~~his~~ **the person's** employment or function as a public servant;

(3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;

(4) solicits, accepts, or agrees to accept any property, except property ~~he~~ **the person** is authorized by law to accept, with intent to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his~~ **the person's** best efforts in connection with

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that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that ~~he~~ **the person** will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning ~~him~~ **the person** to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from the proceeding or investigation to which ~~he~~ **the person** has been legally summoned; ~~or~~

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning the witness or informant to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from any proceeding or investigation to which the witness or informant has been legally summoned; **or**

**(9) confers, offers or agrees to confer any property on an individual for:**

**(A) casting a ballot or refraining from casting a ballot; or**

**(B) voting for a political party, for a candidate, or for or against a public question;**

**in an election described in IC 3-5-1-2, or at a convention of a political party authorized under IC 3;**

commits bribery, a Class C felony.

(b) It is no defense that the person whom the accused person sought to control was not qualified to act in the desired way.

SECTION 49. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 3-5-2 apply throughout this SECTION.**

**(b) Not later than March 31, 2004, the commission shall act under IC 3-5-4-8 to prescribe absentee ballot application forms that comply with IC 3-11, as amended by this act.**

**(c) This subsection does not apply to an absentee ballot**

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1 application form prescribed by the commission for use by an  
 2 absent uniformed services voter or overseas voter. An absentee  
 3 ballot application form prescribed by the commission before April  
 4 1, 2004, may not be used or accepted by a county election board  
 5 after March 31, 2004.

6 (d) This SECTION expires January 1, 2005.

7 SECTION 50. [EFFECTIVE UPON PASSAGE] (a) The definitions  
 8 in IC 3-5-2 and IC 3-11-8-1.2 apply throughout this SECTION.

9 (b) Notwithstanding IC 3-11-8-15, an individual who is issued  
 10 credentials by a county election board is permitted in the polls of  
 11 that county during an election to conduct a survey to determine  
 12 whether the polling place is an accessible facility.

13 (c) Upon a precinct election officer's request, an individual  
 14 described in subsection (b) shall present to the officer the  
 15 individual's credentials issued by the county election board.

16 (d) This SECTION expires December 1, 2004.

17 SECTION 51. [EFFECTIVE UPON PASSAGE] (a) The legislative  
 18 council shall:

19 (1) direct an interim or statutory committee determined by  
 20 the legislative council to study the existing criminal penalties  
 21 for election law violations under IC 3; and

22 (2) direct the committee to report its findings to the legislative  
 23 council in an electronic format under IC 5-14-6 not later than  
 24 November 1, 2004.

25 (b) This SECTION expires January 1, 2005.

26 SECTION 52. [EFFECTIVE JANUARY 1, 2004  
 27 (RETROACTIVE)] (a) This SECTION applies to an individual:

28 (1) who was elected during November 2003 to an office of a  
 29 political subdivision; and

30 (2) to whom IC 5-4-1-1.2 applies.

31 (b) Notwithstanding the time limits under IC 5-4-1-1.2(c), an  
 32 individual's deposit before March 1, 2004, of the oath required by  
 33 IC 5-4-1-1 with the office listed in IC 5-4-1-4 is legalized, and  
 34 IC 5-4-1-1.2(d) does not apply.

35 (c) This SECTION expires July 1, 2004.

36 SECTION 53. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred House Bill 1151, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 2. IC 3-11-4-2, AS AMENDED BY P.L.126-2002, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee ballot must apply to the county election board for an official absentee ballot. **Except as provided in subsection (b), the voter must sign the absentee ballot application.**

(b) **If a voter with disabilities is unable to sign the absentee ballot application and the voter has not designated an individual to serve as attorney in fact for the voter, the county election board may designate an individual to sign the application on behalf of the voter.** If an individual applies for an absentee ballot as the properly authorized attorney in fact for a voter, the attorney in fact must attach a copy of the power of attorney to the application.

(c) **A person who assists an individual in completing an absentee ballot application shall state the following information on the application:**

(1) **The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.**

(2) **The date and location at which this assistance was provided.**

(3) **That the individual has no knowledge or reason to believe that the individual submitting the application:**

(A) **is ineligible to vote or ineligible to cast an absentee ballot; or**

(B) **did not properly complete and sign the application.**

(d) **A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election board not later than:**

(1) **noon seven (7) days after the individual receives the application; or**

(2) **the deadline set by Indiana law for filing the application with the board;**

**whichever occurs first.**

(e) **An individual filing an absentee ballot application received**

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from another individual must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

- (1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.
- (2) A statement that the individual filing the affidavit has complied with the Indiana laws governing the submission of absentee ballot applications.
- (3) A statement that the individual has no knowledge or reason to believe that the individual whose application is to be filed:
  - (A) is ineligible to vote or to cast an absentee ballot; or
  - (B) did not properly complete and sign the application.
- (4) A statement that the individual is executing the affidavit under the penalties of perjury.
- (5) A statement setting forth the penalties for perjury.

(f) The county election board shall record the date and time of the filing of the affidavit and provide the individual with a file stamped copy of the affidavit without collecting any copying fee.

SECTION 3. IC 3-11-4-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter which contains a standardized oath for those voters. The form of the application for an absentee ballot must:

- (1) require the applicant to swear to or affirm under the penalties of perjury that all the information set forth on the application is true to the best of the applicant's knowledge and belief;
- (2) require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(c) of this chapter; and
- (3) set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

- (1) requests an absentee ballot; and
- (2) is eligible to vote in the precinct under IC 3-10-11 or

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IC 3-10-12;  
must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

SECTION 4. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board **(or the absentee voter board in the office of the circuit court clerk)** shall determine if:

- (1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;
- (2) the information set forth on the application appears to be true; and
- (3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination. The members of the absentee voter board or the county election board may compare the voter's signature on the application with the voter's signature on the voter's registration record to make a determination under this subsection.

(b) If:

- (1) the applicant is not a voter of the precinct according to the registration record; or if
- (2) the application as completed and filed:
  - (A) contains a false statement; or
  - (B) does not otherwise comply with ~~this chapter~~; **Indiana or federal law;**

**as alleged under section 18.5 of this chapter**, the county election board shall deny the application.

~~(b)~~ (c) This subsection applies ~~after December 31, 2003~~, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

- (1) not later than forty-eight (48) hours after the application is denied; and

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(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

~~(c) This subsection applies after December 31, 2003:~~

**(d)** If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

- (1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and
- (2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(d)~~ **(e)** If the applicant:

- (1) is a voter of the precinct according to the registration record;
- (2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and
- (3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter."

Page 3, between lines 31 and 32, begin a new paragraph and insert:

"SECTION 6. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18.5. (a) Upon receipt of an absentee ballot application, a member of the county election board or a member of an absentee voter board may file an affidavit with the county election board alleging that the application:**

- (1) is not submitted by a voter of the precinct;**
- (2) contains a false statement; or**
- (3) has not been executed or filed in accordance with Indiana or federal law.**

**(b) The affidavit must be in a form prescribed by the**

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commission and state the following:

- (1) The name and title of the individual filing the affidavit.
- (2) A brief statement of the facts known or believed by the individual regarding why:
  - (A) the applicant is not a voter of the precinct;
  - (B) the application contains a false statement; or
  - (C) the application has not been executed or filed in accordance with Indiana or federal law.
- (3) That the individual is executing the affidavit under the penalties of perjury.
- (4) The penalties for perjury.

(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.

(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.

SECTION 7. IC 3-11-4-21, AS AMENDED BY P.L.209-2003, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

- (1) The name of the precinct and township (or ward and city or town).
- (2) That the voter is:
  - (A) a resident of; or
  - (B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.
- (3) The voter's complete residence address, including the name of the city or town and county.
- (4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.
- (5) That:
  - (A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;
  - (B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the

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individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or (C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

**(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury."**

Page 4, between lines 20 and 21, begin a new paragraph and insert:

**"(c) If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall then deposit the sealed envelope in the United States mail for delivery to the county election board or may authorize a member of the voter's household or the individual designated as the voter's attorney in fact to deposit the envelope in the United States mail."**

Page 4, line 21, strike "(c)" and insert "(d)".

Page 4, after line 25 begin a new paragraph and insert:

**"SECTION 9. IC 3-11-10-25, AS AMENDED BY P.L.209-2003, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot because of:**

**(1) illness or injury; or**

**(2) caring for a confined person at a private residence;**

**and who is within the county on election day may vote before an absentee voter board or by mail.**

**(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:**

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- (1) during the regular office hours of the circuit court clerk;
- (2) at a time agreed to by the board and the voter;
- (3) on any of the twelve (12) days immediately before election day; and
- (4) only once before an election, unless:
  - (A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or
  - (B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement at a time:

- (1) agreed to by the board and the voter; and
- (2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

- (1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;
- (2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and
- (3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

- (1) information concerning the effect of casting multiple votes for an office; and
- (2) instructions on how to correct the ballot before the ballot is

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cast and counted, including the issuance of replacement ballots.

**(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter. The Absentee Voter's Bill of Rights must be in a form prescribed by the commission and include the following:**

- (1) A statement summarizing the rights and responsibilities of the voter when casting and returning the absentee ballot.**
- (2) A summary of Indiana and federal laws concerning providing assistance to the voter, completion of the ballot in secret, the intimidation of voters, and the return of the absentee ballot to the county election board.**
- (3) Information concerning how to report violations of the absentee ballot and election laws.**

**SECTION 10. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor. knowingly does any of the following commits a Class D felony:**

- (1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.**
- (2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.**
- (3) Pays or offers to pay an individual for doing any of the following:**
  - (A) Applying for an absentee ballot.**
  - (B) Casting an absentee ballot.**
  - (C) Registering to vote.**
  - (D) Voting.**
- (4) Accepts the payment of any property for doing any of the following:**
  - (A) Applying for an absentee ballot.**
  - (B) Casting an absentee ballot.**
  - (C) Registering to vote.**
  - (D) Voting.**

**SECTION 11. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A person who does either of the following, knowing that an individual is ineligible to register to**

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vote or to vote, commits absentee ballot fraud, a Class D felony:

(1) Solicits the individual to complete an absentee ballot application.

(2) Solicits the individual to submit an absentee ballot application to a county election board.

SECTION 12. IC 3-14-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who:

(1) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** knowing that the application contains a false statement; or

(2) subscribes the name of another person to an affidavit of registration **or application for an absentee ballot** without writing on it the person's own name and address as an attesting witness;

commits a ~~Class A misdemeanor~~ **Class D felony**.

SECTION 13. IC 3-14-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) A person who recklessly destroys or fails to deliver an absentee ballot application to the proper officer after the application has been executed in accordance with IC 3-11-4 commits a Class A misdemeanor.**

**(b) A person who recklessly destroys or fails to file or deliver to the proper officer a registration affidavit or form of registration after it the affidavit or form has been executed commits a Class A misdemeanor.**

SECTION 14. IC 3-14-2-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. A person who knowingly hires or solicits another person

~~(1) to come into Indiana; or~~

~~(2) to go from one precinct into another a precinct~~

for the purpose of voting at an election **at the precinct** when the person hired or solicited is not a voter in ~~Indiana~~ **or the precinct** commits a Class D felony.

SECTION 15. IC 3-14-2-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of the commission, an employee **or agent** of the ~~commission~~, **election division**, or a member, **an employee, or an agent** of a county election board who knowingly delivers a ballot to a person except in the manner prescribed by this title commits a Class D felony.

SECTION 16. IC 3-14-2-16, AS AMENDED BY P.L.38-1999, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A person who knowingly does any of the following commits a Class D felony:

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- (1) Applies for or receives a ballot in a precinct other than that precinct in which the person is entitled to vote.
- (2) Except when receiving assistance under IC 3-11-9, shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted.
- (3) Except when offering assistance requested by a voter in accordance with IC 3-11-9, examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot.
- (4) Receives from a voter a ballot prepared by the voter for voting, except:
  - (A) the inspector;
  - (B) a member of the precinct election board temporarily acting for the inspector;
  - (C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or
  - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, **or an employee of the United States Postal Service**, when delivering an envelope containing an absentee ballot under IC 3-11-10-1.
- (5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.
- (6) Delivers a ballot to a voter to be voted, unless the person is:
  - (A) a poll clerk or authorized assistant poll clerk; or
  - (B) a member of a county election board or an absentee voter board acting under IC 3-11-10.
- (7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.
- (8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.
- (9) **Delivers an absentee ballot prepared by the voter for voting to a county election board, except for:**
  - (A) the inspector;
  - (B) a member of the precinct election board temporarily acting for the inspector;
  - (C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or
  - (D) a member of the voter's household or an individual designated as attorney in fact for the voter, or an employee

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of the United States Postal Service, when mailing an envelope containing an absentee ballot under IC 3-11-10-1.  
**(10) Possesses an unmarked absentee ballot, unless the person is authorized to possess the absentee ballot under this title as any of the following:**

- (A) A printer.**
- (B) A county election board member.**
- (C) An absentee voter board member.**
- (D) An employee of the United States Postal Service when delivering an envelope containing an absentee ballot.**
- (E) An individual authorized to deliver an absentee ballot in a sealed envelope under IC 3-11-10-24.**
- (F) An absentee ballot counter under IC 3-11.5.**
- (G) A provisional ballot counter.**
- (H) A precinct election officer.**
- (I) The voter who applied for the absentee ballot.**
- (11) Completes or signs an absentee ballot application for a voter, or assists a voter in completing an absentee ballot application in violation of IC 3-11.**

SECTION 17. IC 3-14-2-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who knowingly:

- (1) does anything to enable any other person to see or know for what ticket, candidates, or public questions the voter has voted on a voting ~~machine~~; **system**; or
  - (2) moves into a position, or does any other thing, to enable the voter to see or know for what ticket, candidates, or public questions any other voter votes on a voting ~~machine~~; **system**;
- commits a Class D felony.

SECTION 18. IC 3-14-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

- (1) takes a ballot legally deposited out of a ballot box **or out of a voting system** for the purpose of destroying ~~it the ballot~~ or substituting another **ballot** in its place;
  - (2) destroys or misplaces a ballot with the intent to substitute another ballot for it or with the intent to prevent it from being counted; or
  - (3) knowingly enters upon the poll books the name of a person who has not legally voted or knowingly tallies a vote for a candidate or on a public question not voted for by the ballot;
- commits a Class D felony.

SECTION 19. IC 3-14-2-26 IS AMENDED TO READ AS



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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

- (1) during the progress of an election or within the time for preparation required under this title, knowingly breaks open or violates the seal or lock of a ballot box, envelope, container, ~~or~~ bag, **or voting system component** in which ballots have been deposited;
- (2) knowingly obtains a ballot box, envelope, container, ~~or~~ bag, **or voting system component** that contains ballots and cancels, withholds, or destroys a ballot;
- (3) knowingly increases or decreases the number of ballots legally deposited in a ballot box, envelope, container, ~~or~~ bag, **or voting system component**; or
- (4) knowingly makes a fraudulent erasure or alteration on a tally sheet, poll book, list of voters, or election return deposited in a ballot box, envelope, ~~or~~ bag, **or voting system component**;

commits a Class D felony.

SECTION 20. IC 3-14-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who knowingly inspects a ~~voting machine or electronic~~ voting system under IC 3-12-4-18 without obtaining authorization from the state recount commission to conduct the inspection commits a Class D felony.

SECTION 21. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.5. A person who knowingly does any of the following commits a Class D felony:**

- (1) Procures or submits voter registration applications known by the person to be materially false, fictitious, or fraudulent.**
- (2) Procures, casts, or tabulates ballots known by the person to be materially false, fictitious, or fraudulent.**

SECTION 22. IC 3-14-3-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An inspector or poll clerk in a precinct who, for the purpose of:

- (1) deceiving a voter;
- (2) causing it to be doubtful for what ticket, candidate, or public question a vote is cast; or
- (3) causing it to appear that votes cast for one ticket, candidate, or public question were cast for another ticket, candidate, or public question;

removes, changes, or mutilates a ~~ballot label on~~ a voting ~~machine~~ **system** or any part ~~thereof of a voting system~~ commits a Class D felony.

SECTION 23. IC 3-14-3-16, AS AMENDED BY P.L.66-2003,

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SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) As used in this section, "electioneering" includes expressing support or opposition to any candidate or political party or expressing approval or disapproval of any public question in any manner that could reasonably be expected to convey that support or opposition to another individual.

(b) A person who knowingly does any electioneering:

(1) on election day within:

(A) the polls; or

~~(B) fifty (50) feet of the entrance to the polls; or~~

**(B) the chute;**

(2) within an area in the office of the circuit court clerk used by an absentee voter board to permit an individual to cast an absentee ballot; **or**

**(3) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law;**

commits a Class A misdemeanor.

SECTION 24. IC 3-14-3-18, AS AMENDED BY P.L.176-1999, SECTION 118, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section, "candidate" includes an individual whom the person knows is considering becoming a candidate.

(b) A person who, for the purpose of influencing a voter or candidate, **does any of the following commits a Class D felony:**

(1) Seeks to enforce the payment of a debt by force or threat of force.

(2) Ejects or threatens to eject the voter or candidate from a house the voter or candidate occupies.

(3) Begins a criminal prosecution. ~~or~~

(4) Damages the business or trade of the voter or candidate.

~~commits a Class D felony.~~

**(5) Communicates a threat to commit a forcible felony (as defined in IC 35-41-1-11) against a voter or a candidate with the intent that the voter or candidate:**

**(A) engage in conduct against the voter's or candidate's will; or**

**(B) be placed in fear of retaliation for a prior lawful act as a voter or a candidate.**

SECTION 25. IC 3-14-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

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**(1) cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; gives, offers, or promises to any person any money or other property commits a Class D felony.**

SECTION 26. IC 3-14-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who, for the purpose of inducing or procuring a voter to:

**(1) cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention; receives, accepts, requests, or solicits from any person any money or other property commits a Class D felony.**

SECTION 27. IC 3-14-3-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. A person who knowingly or intentionally intimidates, threatens, or coerces an individual for:**

**(1) voting or attempting to vote; or**

**(2) exercising any power or duty under this title concerning registration or voting;**

**commits voter intimidation, a Class D felony.**

SECTION 28. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the **county election board for delivery by the prosecuting attorney for the county** ~~who~~ **to the grand jury under section 2 of this chapter. The prosecuting attorney for the county shall:**

**(1) proceed as if the affidavit had been made before the prosecuting attorney; and**

**(2) ~~notify~~ ensure that the grand jury notifies** the NVRA official **under section 2 of this chapter** if a violation of NVRA appears to have occurred.

SECTION 29. IC 3-14-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each

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member shall endorse that member's name on the back of the bag or envelope.

(b) The inspector and judge of the opposite political party shall deliver the **sealed** bag or envelope to the county election board. ~~whose duty it is to~~ **The county election board shall do the following:**

- (1) Remove the affidavits from the bag or envelope.**
- (2) Mail a copy of each affidavit to the secretary of state.**
- (3) Replace the affidavits within the bag or envelope.**
- (4) Reseal the bag or envelope with the endorsement of the name of each county election board member on the back of the bag or envelope.**
- (5) Carefully preserve it the resealed bag or envelope and deliver it, with the county election board's seal unbroken, to the foreman of the grand jury when next in session.**

(c) The grand jury shall inquire into the truth or falsity of the affidavits, and the court having jurisdiction over the grand jury shall specially charge the jury as to its duties under this section.

- (d) The grand jury shall file a report of the result of its inquiry with:
- (1) the court; and
  - (2) the NVRA official if a violation of NVRA appears to have occurred.

SECTION 30. IC 35-44-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) A person who:

- (1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant;
- (2) being a public servant, solicits, accepts, or agrees to accept, either before or after ~~he the person~~ becomes appointed, elected, or qualified, any property, except property ~~he the person~~ is authorized by law to accept, with intent to control the performance of an act related to ~~his the person's~~ employment or function as a public servant;
- (3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;
- (4) solicits, accepts, or agrees to accept any property, except property ~~he the person~~ is authorized by law to accept, with intent

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to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that ~~he~~ **the person** will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning ~~him~~ **the person** to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from the proceeding or investigation to which ~~he~~ **the person** has been legally summoned; ~~or~~

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(i) **(A)** withhold any testimony, information, document, or thing;

(ii) **(B)** avoid legal process summoning the witness or informant to testify or supply evidence; or

(iii) **(C)** absent ~~himself~~ **the person** from any proceeding or investigation to which the witness or informant has been legally summoned; **or**

**(9) confers, offers or agrees to confer any property on an individual for:**

**(A) casting a ballot or refraining from casting a ballot; or**

**(B) voting for a political party, for a candidate, or for or against a public question;**

**in an election described in IC 3-5-1-2, or at a convention of a political party authorized under IC 3;**

commits bribery, a Class C felony.

(b) It is no defense that the person whom the accused person sought to control was not qualified to act in the desired way.

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SECTION 31. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 3-5-2 apply throughout this SECTION.

(b) Not later than March 31, 2004, the commission shall act under IC 3-5-4-8 to prescribe absentee ballot application forms that comply with IC 3-11, as amended by this act.

(c) This subsection does not apply to an absentee ballot application form prescribed by the commission for use by an absent uniformed services voter or overseas voter. An absentee ballot application form prescribed by the commission before April 1, 2004, may not be used or accepted by a county election board after March 31, 2004.

(d) This SECTION expires January 1, 2005.

SECTION 32. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1151 as introduced.)

MAHERN, Chair

Committee Vote: yeas 12, nays 0.

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# HOUSE MOTION

Mr. Speaker: I move that House Bill 1151 be amended to read as follows:

Page 20, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE UPON PASSAGE] **(a) The legislative council shall:**

**(1) direct an interim or statutory committee determined by the legislative council to study the existing criminal penalties for election law violations under IC 3; and**

**(2) direct the committee to report its findings to the legislative council in an electronic format under IC 5-14-6 not later than November 1, 2004.**

**(b) This SECTION expires January 1, 2005."**

Re-number all SECTIONS consecutively.

(Reference is to HB 1151 as printed January 30, 2004.)

KUZMAN

# HOUSE MOTION

Mr. Speaker: I move that House Bill 1151 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-6-8-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. **(a) A watcher appointed under this chapter must satisfy both of the following:**

**(1) A watcher must be a registered voter of the county.**

**(2) A watcher may not be related to a candidate in a manner that would disqualify the watcher to serve as a precinct election officer under IC 3-6-6-7(a)(4)."**

Page 11, between lines 29 and 30, begin a new paragraph and insert:

"SECTION 11. IC 3-12-6-1.5, AS AMENDED BY P.L.40-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A candidate for election to precinct committeeman or state convention delegate is **not** entitled to have the votes cast for that office recounted under this chapter. The political party of the candidate, in accordance with any applicable party rules, determines the winner of an election to a political party office.

SECTION 12. IC 3-12-6-21.7 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.7. (a) **The recount commission shall count the ballots in each precinct separately.**

(b) Unless the recount commission makes a finding under subsection ~~(b)~~; **(c) and issues an order under subsection (d)**, the recount commission shall

~~(1)~~ count ballots in accordance with this article. ~~and~~

~~(2) not order that all ballots in a precinct not be counted.~~

~~(b)~~ (c) If

~~(1)~~ a party to the recount presents evidence of fraud, tampering, or misconduct ~~affecting that occurred in a precinct, the commission may make a finding that the fraud, tampering, or misconduct affected the integrity of the ballot balloting within a that precinct and~~

~~(2) to the extent that the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission is unable to determine the approximate number of votes that each candidate received in that precinct.~~

**(d) If the commission makes a finding under subsection (c), the commission may order that none of the ballots from that precinct be counted.**

**(e) If the commission adopts an order permitted by subsection (d), the commission shall determine the number of votes received by each candidate without including any votes cast in the affected precinct."**

Page 18, between lines 36 and 37, begin a new paragraph and insert:  
"SECTION 33. IC 33-16-4-1, AS AMENDED BY P.L.176-1999, SECTION 130, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The following are authorized to subscribe and administer oaths and take acknowledgments of all documents whatsoever, pertaining to all matters where an oath is required:

- (1) Notaries public.
- (2) Justices and judges of courts, in their respective jurisdictions.
- (3) The secretary of state of Indiana.
- (4) The clerk of the supreme court.
- (5) Mayors, clerks, clerk-treasurers of towns and cities, and township trustees, in their respective towns, cities, and townships.
- (6) Clerks of circuit courts and master commissioners, in their respective counties.
- (7) Judges of United States district courts of Indiana, in their



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respective jurisdictions.

(8) United States commissioners appointed for any United States district court of Indiana, in their respective jurisdictions.

(9) **The following, for any purpose authorized under IC 3:**

(A) A precinct election officer (as defined in IC 3-5-2-40.1).  
~~and~~

(B) An absentee voter board member appointed under IC 3-11-10, for any purpose authorized under IC 3.

(C) **The director, the assistant director, or an employee of the board of elections and registration established by IC 3-6-5.2-3.**

(10) A member of the Indiana election commission, a co-director of the election division, or an employee of the election division under IC 3-6-4.2.

(11) County auditors, in their respective counties.

(12) Any member of the general assembly anywhere in Indiana."

Renumber all SECTIONS consecutively.

(Reference is to HB 1151 as printed January 30, 2004.)

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## COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred House Bill No. 1151, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 3-5-2-26.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.4. "Household" has the meaning set forth in the Profiles of General Demographic Characteristics, Census 2000, United States Census Bureau.**

SECTION 2. IC 3-6-6-39, AS AMENDED BY P.L.209-2003, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39. (a) The county election board by unanimous vote of the entire membership of the board may permit an individual who is not a voter to serve as any precinct election officer (other than inspector), or to assist a precinct election officer, if the individual satisfies all the following:

- (1) The individual is at least sixteen (16) years of age but not more than seventeen (17) years of age.
- (2) The individual is a citizen of the United States.
- (3) The individual is a resident of the county.
- (4) The individual has a cumulative grade point average equivalent to not less than 3.0 on a 4.0 scale.
- (5) The individual has the written approval of the principal of the school the individual attends at the time of the appointment or, if the student is educated in the home, the approval of the individual responsible for the education of the student.
- (6) The individual has the approval of the individual's parent or legal guardian.
- (7) The individual has satisfactorily completed any training required by the county election board.
- (8) The individual otherwise is eligible to serve as a precinct election officer under this chapter.

(b) ~~After January 1, 2004,~~ An individual appointed to a precinct election office or assistant under this section:

- (1) must serve in a nonpartisan manner in accordance with the standards developed by the Help America Vote Foundation under 36 U.S.C. 152602; **and**
- (2) **while serving as a precinct election officer or assistant:**

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**(A) is not required to obtain an employment certificate under IC 20-8.1-4-1; and**

**(B) is not subject to the limitations on the time and duration of employment under:**

**(i) IC 20-8.1-4-20; or**

**(ii) IC 20-8.1-4-21(b)."**

Page 1, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 4. IC 3-7-33-4.5, AS ADDED BY P.L.209-2003, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. ~~(a)~~ This section applies after December 31, 2003:

~~(b)~~ **(a)** Except as provided in subsection ~~(c)~~, **(b)**, this section applies to an individual who:

(1) submits an application to register to vote by mail under IC 3-7-22; and

(2) has not previously voted in:

(A) a general election in Indiana (or a special election for federal office in Indiana); or

(B) a general election (or a special election for federal office) in the county where the individual has submitted an application under this chapter if a statewide voter registration system is not operational in accordance with the requirements of IC 3-7-26 and 42 U.S.C. 15483 on the date the application is received by the county voter registration office.

~~(c)~~ **(b)** This section does not apply to an individual who complies with the requirements in any of the following:

(1) The individual submits an application to register to vote by mail under this chapter and includes with that mailing a copy of:

(A) a current and valid photo identification; or

(B) a current utility bill, bank statement, government check, paycheck, or government document;

that shows the name and **residence** address of the voter **stated on the voter registration application.**

(2) The individual submits an application to register to vote by mail under this chapter that includes the individual's:

(A) Indiana driver's license number; or

(B) last four (4) digits of the individual's Social Security number;

and the county voter registration office or election division matches the information submitted by the applicant with an existing Indiana identification record bearing the same number, name, and date of birth set forth in the voter registration

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application.

(3) The individual is an absent uniformed services voter or overseas voter.

(4) The individual is entitled to vote other than in person under the federal Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. 1973ee-1(b)(2)(B)(ii)) due to a determination by the election division that a permanent or temporarily accessible polling place cannot be provided for the individual.

(5) The individual is entitled to vote other than in person under any other federal law.

~~(d)~~ (c) When a county voter registration office receives a voter registration application by mail, the office shall determine whether the applicant is subject to the requirements to provide additional documentation under this section and 42 U.S.C. 15483.

~~(e)~~ (d) As required by 42 U.S.C. 15483, a county voter registration office shall administer the requirements of this section in a uniform and nondiscriminatory manner.

~~(f)~~ (e) If the county voter registration office determines that the applicant:

(1) is not required to submit additional documentation under this section; or

(2) has provided the documentation required under this section; the county voter registration office shall process the application in accordance with section 5 of this chapter.

~~(g)~~ (f) If the county voter registration office determines that the applicant is required to submit additional documentation under this section and 42 U.S.C. 15483, the office shall process the application under section 5 of this chapter and, if the applicant is otherwise eligible to vote, add the information concerning this documentation to the voter's computerized registration entry under IC 3-7-27-20(c).

~~(h)~~ (g) The county voter registration office shall remove the notation described in subsection ~~(g)~~ (f) after the voter votes in an election for a federal office.

SECTION 5. IC 3-7-38.2-2, AS AMENDED BY P.L.209-2003, SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter list maintenance program conducted under this chapter or before January 1, 2006, IC 3-7-38.1 must be:

(1) uniform, nondiscriminatory, and in compliance with the Voting Rights Act of 1965 (42 U.S.C. 1973);

(2) not result in the removal of the name of a person from the official list of votes solely due to the person's failure to vote; and

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(3) completed not later than ninety (90) days before a primary, general, or municipal election.

**(b) A county voter registration office may conduct a voter list maintenance program that complies with subsection (a). In conducting a voter list maintenance program, the county voter registration office shall mail a notice described in subsection (d) to each registered voter at the residence address:**

- (1) listed in the voter's registration record; and**
- (2) determined by the county voter registration office not to be the voter's current residence address.**

**(c) A county voter registration office may use information only from the following sources to make the determination under subsection (b)(2):**

- (1) The United States Postal Service National Change of Address Service.**
- (2) A court regarding jury duty notices.**
- (3) The return of a mailing sent by the county voter registration office to all voters in the county.**
- (4) The bureau of motor vehicles concerning the surrender of a voter's Indiana license for the operation of a motor vehicle to another jurisdiction.**

**(d) The notice described in subsection (b) must:**

- (1) be sent by first class United States mail, postage prepaid, by a method that requires the notice to be forwarded to the voter; and**
- (2) include a postage prepaid return card that:**
  - (A) is addressed to the county voter registration office;**
  - (B) states a date by which the card must be returned or the voter's registration will become inactive until the information is provided to the county voter registration office; and**
  - (C) permits the voter to provide the voter's current residence address.**

**(e) If a voter returns the card described in subsection (d)(2) and provides a current residence address that establishes that the voter resides:**

- (1) in the county, the county voter registration office shall update the voter's registration record; or**
- (2) outside the county, the county voter registration office shall cancel the voter's registration.**

**(f) If a voter does not return the card described in subsection (d)(2) by the date specified in subsection (d)(2)(B), the county voter**

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registration office shall indicate in the voter's registration record that the voter's registration is inactive.

(g) A voter's registration that becomes inactive under subsection (f) remains in inactive status from the date described in subsection (d)(2)(B) until the earlier of the following:

- (1) The date the county voter registration office updates or cancels the voter's registration under subsection (e) after the voter provides a current residence address.
- (2) The day after the second general election in which the voter has not voted or appeared to vote.

(h) After the date described in subsection (g)(2), the county voter registration office shall remove the voter's registration from the voter registration records."

Page 9, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 13. IC 3-11-8-3, AS AMENDED BY P.L.116-2003, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) Before each election each county executive shall secure for each precinct of the county an accessible facility in which to hold the election.

(b) If an accessible facility is not available within the precinct, then the polls may be located in a public building in an adjoining precinct if the public building is: polls are:

- (1) either:
  - (A) not more than one (1) mile from the closest boundary of the precinct for which it is the polls; or
  - (B) located in the same township as the precinct that does not have an accessible facility available; and
- (2) an accessible facility.

(c) If the county election board, by a unanimous vote of its entire membership, determines that an accessible facility is not available under subsection (b), the board may locate the polls in the most convenient available accessible facility in the county.

(d) If the county election board, by a unanimous vote of its entire membership, determines that:

- (1) an accessible facility is not available under subsection (b) or (c); and
- (2) the most convenient accessible facility is located in a adjoining county;

the board may locate the polls in that facility with the unanimous consent of the entire membership of the county election board of the county in which the facility is located.

SECTION 14. IC 3-11-8-7, AS AMENDED BY P.L.69-2003,

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SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. In preparing the polls for an election, the county executive shall:

- (1) have placed within the room a railing separating the part of the room to be occupied by the precinct election board from that part of the room to be occupied by the voting machines, ballot card voting systems, electronic voting systems, and the three (3) or more booths or compartments for marking paper ballots, whenever either or two (2) of these voting systems are used;
- (2) ensure that the portion of the room set apart for the precinct election board includes a door at which each voter appears for challenge; and
- (3) provide a **method or material for designating the boundaries of the chute, such as** with a railing, rope, or wire on each side, beginning a distance equal to the length of the chute (as defined in IC 3-5-2-10) away from and leading to the door for challenge and to the room in which the election is held."

Page 9, line 11, reset in roman "who satisfies any of the following".

Page 9, reset in roman lines 12 through 31.

Page 9, between lines 31 and 32, begin a new line block indented and insert:

**"(9) The voter is an address confidentiality program participant (as defined in IC 5-26.5-1-6)."**

Page 11, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 17. IC 3-11-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(b) At the opening of the polls, the inspector and judges shall see that there are no ballots in the ballot box before the voting begins. After the inspection of the box, the inspector shall:

- (1) securely lock the box;
- (2) give one (1) key to the judge of the opposite political party; and
- (3) retain one (1) key.

(c) Once securely locked, the ballot box may not be opened again until after the polls have been closed and the precinct election board is

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ready to immediately proceed with the counting, except as otherwise provided for central counting.

(d) The voting booths or compartments must be of a size and design to permit a voter to mark ballots in secret.

SECTION 18. IC 3-11-12-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. On the morning of election day, each precinct election board, the poll clerks, and the election sheriffs shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

SECTION 19. IC 3-11-13-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. (a) After the delivery of a ballot card voting system to a precinct, the precinct election board may meet at the polls on the same day and open the package containing the sample ballot cards, to determine whether the system is ready for use in accordance with section 16 of this chapter. If a ballot card voting system is not in compliance with that section, the board shall immediately label, set and adjust, and place the system in order or have it done.

(b) While acting under subsection (a), the precinct election board may restrict access to parts of the room where marking devices and other election material are being handled to safeguard this material.

(c) On the morning of election day, the precinct election officers shall meet at the polls at least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute erected designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls.

(d) Before the opening of the polls, the precinct election officers shall compare the ballot cards used in the marking device with the sample ballots furnished and determine whether the names, numbers, and letters are in agreement. The officers then shall certify that the marking device and the sample ballots are in agreement. Forms shall be provided for certification, and the certification shall be filed with the election returns.

SECTION 20. IC 3-11-14-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. On the morning of election day, the precinct election officers shall meet at the polls at

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least one (1) hour before the time for opening the polls. The inspector then shall have:

- (1) the **boundaries of the chute ~~erected~~ designated;**
- (2) the sample ballots and instruction cards posted; and
- (3) everything put in readiness for the commencement of voting at the opening of the polls."

Page 12, delete lines 2 through 28.

Page 15, between lines 33 and 34, begin a new line block indented and insert:

**"(12) Except as authorized in this title:**

- (A) delivers an absentee ballot security envelope to a voter;**
- (B) requests or directs the voter to sign the absentee ballot security envelope; and**
- (C) receives from a voter the signed absentee ballot security envelope."**

Page 17, line 22, after "day" insert ":'".

Page 17, line 22, strike "within:".

Page 17, line 23, after "(A)" insert "**within**".

Page 17, line 23, strike "or".

Page 17, line 24, reset in roman "(B)".

Page 17, line 24, after "(B)" insert "**within**".

Page 17, line 24, reset in roman "fifty (50) feet".

Page 17, line 24, after "of" insert "**in any direction from**".

Page 17, line 24, reset in roman "the entrance to the polls;".

Page 17, line 25, delete "(B)" and insert "(C)".

Page 17, line 25, after "(C)" insert "**within**".

Page 17, line 25, after "chute;" insert "**or**

**(D) inside the boundaries of the chute designated under IC 3-11."**

Page 22, between lines 15 and 16, begin a new paragraph and insert:

**"SECTION 43. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 3-5-2 and 3-11-8-1.2 apply throughout this SECTION.**

**(b) Notwithstanding IC 3-11-8-15, an individual who is issued credentials by a county election board is permitted in the polls of that county during an election to conduct a survey to determine whether the polling place is an accessible facility.**

**(c) Upon a precinct election officer's request, an individual described in subsection (b) shall present to the officer the individual's credentials issued by the county election board.**

**(d) This SECTION expires December 1, 2004."**

Page 22, between lines 24 and 25, begin a new paragraph and insert:

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"SECTION 45. [EFFECTIVE JANUARY 1, 2004 (RETROACTIVE)] (a) **This SECTION applies to an individual:**

**(1) who was elected during November 2003 to an office of a political subdivision; and**

**(2) to whom IC 5-4-1-1.2 applies.**

**(b) Notwithstanding the time limits under IC 5-4-1-1.2(c), an individual's deposit before March 1, 2004, of the oath required by IC 5-4-1-1 with the office listed in IC 5-4-1-4 is legalized, and IC 5-4-1-1.2(d) does not apply.**

**(c) This SECTION expires July 1, 2004."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1151 as reprinted February 5, 2004.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 0.

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## SENATE MOTION

Madam President: I move that Engrossed House Bill 1151 be amended to read as follows:

Page 7, line 41, delete "which" and insert "**that**".

Page 10, line 5, reset in roman "If a voter satisfies any of the".

Page 10, line 6, delete "The" and insert "**qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail, the**".

Page 11, line 14, strike "must" and insert "**shall**".

Page 14, between lines 14 and 15, begin a new paragraph and insert:  
"SECTION 15. IC 3-11-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. **(a)** A voter voting by absentee ballot may mark a ballot with a pen or a lead pencil.

**(b) A person may not engage in electioneering (as defined in IC 3-14-3-16) in the presence of a voter if the person knows that the voter possesses an absentee ballot provided to the voter in accordance with Indiana law."**

Page 14, line 18, after "mail" delete "." and insert ":".

Page 18, between lines 34 and 35, begin a new paragraph and insert:  
"SECTION 23. IC 3-12-11-17.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.7. **(a) This section applies to ballots cast by any voting method.**

**(b)** Unless the state recount commission makes a finding under subsection ~~(b)~~ **(c)**, the commission shall:

- (1) count ballots in accordance with this article; and
- (2) not order that all ballots in a precinct not be counted.

~~(b)~~ **(c)** If:

- (1) a party to the recount presents evidence of fraud, tampering, or misconduct affecting the integrity of the ballot within a precinct; and
  - (2) the commission determines that the fraud, tampering, or misconduct within that precinct was so pervasive that it is impossible for the commission to determine the approximate number of votes that each candidate received in that precinct;
- the commission may order that none of the ballots from that precinct be counted."

Page 21, line 23, delete "," and insert "**on or before the date of the election for which the absentee ballot has been printed,**".

Page 21, line 26, delete "." and insert "**or the election division, when arranging for the delivery of unmarked absentee ballots to a county election board under IC 3-11-2."**

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Page 24, after line 42, begin a new paragraph and insert:

"SECTION 41. IC 3-14-3-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. (a) This section does not apply to activity subject to 18 U.S.C. 1341.**

**(b) An individual who knowingly:**

**(1) conspires to obtain property the individual would be entitled to receive as compensation for serving as an elected official by securing false or fraudulent absentee ballot applications or voter registration applications; and**

**(2) for the purpose of executing the conspiracy:**

**(A) causes the applications to be sent or delivered by any private or commercial carrier operating entirely within Indiana; or**

**(B) takes or receives from the private or commercial carrier the false or fraudulent applications or causes the applications to be delivered by the carrier to another person;**

**commits a Class D felony."**

Page 25, line 5, delete "or", begin a new line block indented and insert:

**"(2) urging or aiding another individual to vote or attempt to vote; or"**.

Page 25, line 6, delete "(2)" and insert "(3)".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1151 as printed February 18, 2004.)

LAWSON C

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#### SENATE MOTION

Madam President: I move that Engrossed House Bill 1151 be amended to read as follows:

Page 4, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 5. IC 3-7-38.1-7, AS AMENDED BY P.L.38-1999, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) A county voter registration office shall cancel the registration of a voter who is described by both of the following:**

**(1) The voter is described in section 4(a)(5)(C) of this chapter.**

**(2) The voter has not voted (or appeared to vote or to correct the**

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registration record stating the voter's address) in an election during the period:

- (A) beginning on the date of the notice sent under section 4(a)(3) of this chapter; and
- (B) ending on the day after the date of the second general election that occurs after the date of the notice sent under section 4(a)(3) of this chapter.

**(b) If an individual appears to vote after the individual's registration is placed on inactive status under section 5 of this chapter, the individual must affirm under IC 3-10-1 or IC 3-11-8 before the individual is permitted to vote that the individual currently resides at the address shown on the individual's registration.**

**(c)** At the expiration of the period ending thirty (30) days after the second general election described in subsection (a)(2)(B), the county voter registration office shall cancel the registration of a voter described by this section."

Page 5, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 7. IC 3-7-38.2-13, AS AMENDED BY P.L.38-1999, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. After the county voter registration office has determined under this chapter that a voter's residence may have changed, the election division shall send a notice to the voter that sets forth substantially the following statements as provided in 42 U.S.C. 1973gg-6(d)(2):

(1) If the voter did not change the voter's residence or changed the residence but remained in the same county where the voter was listed on the voter registration record, the voter must return the card enclosed with the notice in person to the county voter registration office not later than twenty-nine (29) days before the election or by regular United States mail:

- (A) with a postmark not later than twenty-nine (29) days before the election; or
- (B) if a postmark is missing or illegible, to the county voter registration office not later than twenty-one (21) days before the election.

(2) If the card is not returned under subdivision (1), the voter ~~may~~ **be required to must** affirm or confirm the voter's address before the voter is permitted to vote in an election during the period:

- (A) beginning on the date of the notice; and
- (B) ending on the day after the date of the second general election scheduled to occur after the date of the notice.

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(3) If the voter does not vote in an election described in subdivision (2), the voter's name will be removed from the voter registration list.

(4) If the voter changed residence to a place outside the county in which the voter is included on the voter registration list, information concerning how the voter can continue to be eligible to vote in the county where the voter currently resides."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1151 as printed February 18, 2004.)

LAWSON C

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